

**Town of Foxborough
Conservation Commission Minutes
November 24, 2014**

Members Present: Robert Boette (Chair), Allan Curtis (Vice Chair), Judith Johnson, Douglas Davis and Valerie Marshall

Members Absent: Eric Nelson (Clerk), James Marsh

Staff Present: Jane Sears Pierce, Conservation Manager, and Diana Gray, Land Use Secretary

Others Present: See attached sign-in sheet

Meeting Opened

Bob Boette opened the meeting, held in the Boyden Library, at 7:00 p.m.

Daniel Gawronski, Proposed Eagle Scout Project at the Lane Property

The Commission met with Dan Gawronski in regards to an Eagle Scout Project. He is a member of Troop 32 and is pursuing becoming an Eagle Scout. In order to become an Eagle Scout one needs to find a problem in the community and submit a proposal to help alleviate that problem. Mr. Gawronski showed a PowerPoint presentation of his proposal which is to construct a trail bridge at the Lane Homestead near the peninsula, which is subject to flooding. The bridge would be 16 feet long, 4 feet wide and about 12”–18” high. There would be dirt fill at each end with a backer board to contain the fill. This would replace the existing piece of a dock that is there now.

Resident Ed Baldwin feels that this will be good for the fishermen who use the trail.

Ms. Johnson asked about the footings, Mr. Gawronski proposes using gravel.

Resident Peter Nelson asked if emergency access would be needed. This should not be an impediment to any emergency access that may be needed. The campsite is very near.

Motion was made by Mr. Davis to allow Daniel Gawronski to replace the existing structure with a new and improved bridge on the Lane Property peninsula; seconded by Ms. Marshall.

Vote: 5-0-0

Mr. Gawronski will submit a copy of the final plan after it is finalized.

15 Union Street, NOI, DEP #157-527

Engineer Bill Buckley of Bay Colony represented the applicant. Mr. Buckley submitted the certified mail receipts.

This application is to construct a single family home on a 20,000 sq. ft. lot with 71 feet of frontage. There are wetlands on the property that were delineated earlier this year. The lot is pre-existing non-conforming and has been owned by the same family since 1945. They have applied for a septic permit from the Board of Health. They are proposing to use a FAST system; the Board of Health has waived the 150 foot requirement due to the use of this system which has a cleaner effluent.

The home will have three bedrooms and will be a 40’ x 40’ structure with two stories and a walk out basement. The house will be raised 1½ feet higher than the existing grade due to the flooding in the rear of the property. Retaining walls will also be used. The structure will have a deck which will be 35 feet from the wetlands and out of the 25 foot No Disturb Zone.

A maintenance contract will be required with the FAST system. A general permit is required by the DEP for a two year contract, this will be given to the Board of Health. The first year requires a testing program quarterly; thereafter it will be done semi-annually. A generator is also required as a backup power supply.

Ms. Johnson commented that there is not a lot of space in the rear for a yard and asked how encroachment to the wetlands will be prevented. Mr. Buckley stated that they would post the wetland area in the back with two bounds with signs.

Alyson Pond of 17 Union Street is concerned that all the mature trees on the lot will be lost. Mr. Buckley stated that the trees from the rear of the house forward would have to be removed; there is no way to save them.

George Murphy of 16 Union Street stated that there is a tributary in the area and a gully on the back of the property that fills with water every year. Putting a home on a small lot such as this is an eyesore in his opinion.

Ms. Pond noted that they are being granted a lot of waivers and variances by the different town departments and wants to know why they are being allowed around the regulations. Mr. Buckley stated that no variances are being asked from the Commission, they will be complying with wetlands regulations.

Mr. Murphy wanted to know if there will be more flooding since the trees will be removed. Mr. Buckley stated that the homes downspouts will drain directly into the ground and discharged to the rear of the property so there should be no negative impacts to the surrounding properties.

Motion was made by Ms. Johnson to close the hearing for DEP #157-527 for 15 Union Street; seconded by Ms. Marshall. **Vote: 5-0-0**

20 Taylor Road, RFD

Peter Nelson, the owner of 20 Taylor Road, was present. His home is located 26 feet from Lake Mirimichi; he would like to construct a deck on the rear of the house (closest to the water) to watch the sunsets. The proposed deck would be 8 feet wide and he would hand dig the sonotubes.

The Commission would like Mr. Nelson to maintain the buffer with native plants; he can talk to the Conservation Manager about doing this.

Motion was made by Ms. Johnson to issue a Negative Determination for 20 Taylor Road; seconded by Mr. Davis. **Vote: 5-0-0**

35 Payson Road, RFD

Engineer Bill Buckley of Bay Colony was present, representing Doug King. This application is for the reconstruction and replacement of the existing drain line at the former State Hospital land. During recent work in the area, the drain was found but there was so much undergrowth that the 18" drain was not found. Later, another section was found that was broken and needed to be redesigned. The Planning Board requested that the drain line be repaired. They would like to replace the 18" concrete line with a 24" plastic line, which would follow the same path and location. It will be a linear trench and rip rap will be installed. The work should take approximately five days and will be performed during a low flow period.

Roof runoff is currently going to the infiltration system, as well as catch basin runoff from Chestnut Street, Payson Road and area parking lots, which have been upgraded with deep sump catch basins and oil and water separators. If the drainage line was moved back from the wetlands, the wetlands would follow it, since they were created by this drain. The drainage outfall does not discharge under the railroad tracks, as previously suspected, so does not go into the Neponset Reservoir.

Mr. Buckley stated that the outfall area is in a bowl, going up 24 feet each way; if this is changed it would go into the 25 foot no disturb area. They will dig in the drain area to create the drainage; Mr. King will do the work but it is on town property.

Mr. Buckley proposed cleaning the swale and creating a plunge pool and installing rip rap; a small excavator will be used. The work will either be done by the end of December or next July during the low flow period. Seeding with native seed mix will be done in the spring if the work is done in December.

Motion was made by Ms. Johnson to issue a Negative Determination for 35 Payson Road; seconded by Ms. Marshall. **Vote: 5-0-0**

204 East Street, NOI, Proposed Forge Estates Subdivision, DEP #157-528

Attorney Dan Seigenberg, Engineer Shane Oates (Coneco) and Environmental Scientist Chris Lucas (Lucas Environmental) represented the applicant.

BSC Group had submitted an estimate to perform a peer review for the Commission which needed the applicant's approval before continuing with the hearing. Atty. Seigenberg stated that they were not opposed to the review and would work with the Commission.

Atty. Seigenberg stated that this application is for a 12 lot residential subdivision; the Planning Board reviewed the preliminary plan and determined that the number of OSRD lots should not exceed 12. The property has 18 acres of land; they are proposing 8 acres of open space with a conservation restriction. A bridge span is proposed to be used to access the lots. He stated that they did reach out to the direct abutters (208 East Street and the Hunts) for an alternate access, but have not received any positive approvals yet. If allowed, an alternative approach would be further down the road at the current driveway to the property.

Mr. Oates stated that they are proposing a 935 foot roadway with twelve lots of 25,000–60,000 sq. ft. They are asking the Planning Board for a narrower road width, which is proposed to be 20 feet wide with Cape Cod berms. The bridge span will be approximately 40 feet long. They are proposing low impact development stormwater BMPs, including drainage swales, rain gardens and a detention basin at the bottom of the hill. The first house would be located 500 feet up the roadway.

They will be using on site septic systems; water service will be provided, but no gas lines.

Bob and Jane had visited the site on the previous Thursday and were both concerned about the work and rip rap that are proposed in an area that was not previously disturbed. A site walk with all of the Commission and the BSC consultant will be required, due to the complexity of the site.

Mr. Oakes stated that they did have a preliminary meeting with Ms. Pierce, who indicated that she did not want the hillside to be covered in rip rap, adding that they are willing to work with the Commission on this issue.

Mr. Lucas explained that the site is in the Canoe River ACEC; there are no vernal pools or rare species on the site, but there are two vernal pools off site for which they will provide buffering. The site is also located in a Mass DEP Zone II.

An ORAD that was issued in 2009 was appealed to the DEP, who issued a Superseding ORAD that will be valid until November, 2016. The approved SORAD's delineation was used for this filing. The SORAD's wetland flag numbers have been included on the proposed plans.

Mr. Lucas stated that resource areas include bank, BLSF, riverfront and 25 foot NDZ (Bylaw). There will be 2,237 cu. ft. of proposed floodplain (BLSF) impacts at elevation 172-174. A bridge is being proposed to avoid filling wetlands, at considerable expense to the applicant. They will also be providing 1,112 cu. ft. of wetlands mitigation.

They feel that the proposed project qualifies as a Limited Project under 310 CMR 10.53(3)(e) and are not filing for any state permits, so no MEPA filing is necessary.

Ms. Johnson asked if the lots had been perked. Mr. Oates stated that they have done tests on a majority of the lots, but not all of them. This information has been provided to the Commission in the application. They have not filed with the Planning Board yet, but will be filing for an Open Space subdivision.

Mr. Lucas explained that since their options are limited for accessing the site, they will be altering 30,000 sq. ft. of riverfront area, adding that the state allows this if there are no other options. Limited Project Status, an implied variance, would allow them to exceed riverfront alteration thresholds.

When asked if any of the project's three lots were created prior to 1996, Mr. Lucas stated that they had Registry of Deeds records showing that two of the lots were created in 2005 (Book 22380/Page 520 and Book 22501/Page 440) and a third lot in 1980 (Book 21596, Page 96), prior to River Act.

Ms. Johnson stated that the invert for the base of the bridge (understructure) would have to be above the FEMA flood level. Mr. Lucas stated that the base of the bridge would be inverted, but it has not been fully designed yet.

Ms. Johnson, indicating that there would be a 6% grade, asked how much fill would need to come out. Mr. Oates stated that approximately 100 feet in length by a five foot cut (details at p.16 of NOI); fill around station 4. Ms. Johnson stated that a vegetation removal plan was needed, suggesting that an alternative location for access should occur in the bank/slope area that is already disturbed.

The Commission discussed the upland, the effects of moving the rip rap slope to the previously disturbed slope, and whether the area was a fish run. Mr. Lucas will check if the area is a fish run.

The Commission questioned whether the Planning Board would allow a bridge to be located at the edge of the property line.

The Commission was concerned that the bridge would further obstruct the current wildlife corridor that runs to Beaumont's Pond. Mr. Lucas stated that the open space area would provide upland as well as wetland areas for the wildlife corridor; the span of the bridge would also be open. Ms. Pierce suggested that the current culvert under East Street could be replaced to include a wildlife crossing area (in compliance with Stream Crossing Standards), to provide mitigation for the granting of Limited Project Status.

Mr. Davis asked if a snow removal plan was available. Mr. Oates stated that one has not been developed yet.

Abutter Colin Browning of 186 East Street had hired Amy Ball as his Environmental Consultant. Ms. Ball submitted a review letter to the Commission for their consideration and briefly reviewed her letter, pointing out the following issues:

1. The Riverfront Alternatives Analysis, provided with the NOI, needs to be more in depth.
2. Under the River Protection Act regulations, Limited Project Status is to be allowed at the discretion of the Conservation Commission.
3. Since the applicant proposes to alter an isolated wetland, they will need a 401 Water Quality Certification (state permit), which will trip MEPA thresholds and require a MEPA filing.
4. The submitted analysis has not demonstrated the Act's avoidance and mitigation requirements.

Mr. Browning's Attorney, Allen Lipkin, stated that the proposed project is located in an Area of Critical Environmental Concern (ACEC). The DEP states that well heads are to be protected in ACECs and this ACEC has ten (downstream) public wells that serve 60,000 people. He handed out a copy of a DEP document explaining the criteria for Limited Project Status.

Attorney Lipkin opined that since the proposed project is located in an ACEC, requires a wetland crossing, and is hilly, he doesn't think it is appropriate to allow Limited Project Status for this filing. Colin Browning of 186 East Street stated that this is a difficult situation with complex issues. He wanted to remind the Commission that the purpose of the Environmental Regulations is to protect the town and its people. Installing 12 septic systems, as well as the salt from the road, will impair the water quality in the area.

Sean McCarthy of 4 Abbie Lane believed that Limited Project Status did not apply to this site, since they have a shared driveway with shared easements, so the property is reachable land and not an encumbrance that would warrant Limited Project Status.

Atty. Seigenberg stated that the easement is limited to one single family home; the Hunts control the rest of the access. He stated that they sent an email to the Hunts, but have not received a response.

Tom Hunt of 206 East Street asked if there are any other similar projects in the ACEC with slopes like this that were ever approved.

Ralph Hunt of 206 East Street stated that he is opposed to the project and asked why his land was not flagged since water runs into the road. Mr. Oates explained that they are not allowed on private property without the owner's permission. The bank of the Canoe River is not on Mr. Hunt's property; there are no resource areas on Mr. Hunt's land either. The disturbed areas were flagged.

Maria Odler of 186 East Street feels that the asphalt and gravel driveways will allow more chemical pollutants with car oil and gas; this will get into the river. Mr. Lucas explained that the state dictates the clarity of the runoff allowed, adding that the impervious surface runoff will be cleaner and have less volume and be slower than what is there today.

Ms. Marshall asked if they had performed a full analysis of stormwater impacts to public water supplies.

Mr. Hunt would like to see a wildlife impact study done.

The Commission will conduct a site walk on December 6th at 1:30 p.m. Ms. Johnson will not be available at the Commission meeting of December 15th. The applicant is agreeable to continuing the hearing to the next available meeting in December.

Motion was made by Ms. Johnson to continue the hearing of DEP #157-528, 204 East Street, to December 29, 2014; seconded by Ms. Marshall. **Vote: 5-0-0**

0 Camp Road, Resource Area Restoration Plan

Mr. and Mrs. Puzin and their representative, Russ Waldron of Applied Ecological Sciences, attended the meeting. In accordance with the Restoration Order dated November 10, 2014, Mr. Waldron drafted a Resource Area Restoration Plan (RARP) for unpermitted work along Neponset Reservoir.

Mr. Waldron presented the November 24, 2014 RARP and associated Restoration Plan dated November 21, 2014 to the Commission. He reviewed the Puzin's unpermitted work, which included (1) adding to a low fieldstone retaining wall along the lakefront, (2) excavating a garden pit in preparation for the construction of a shed, (3) depositing excavated fill material behind the new fieldstone retaining wall, (4) placing marble tiles extending from the shoreline for a boat launch, and (5) pruning existing shrubs within the Bylaw's 25-foot No Disturb Zone.

Mr. Waldron reviewed the RARP's Proposed Restoration Plan, which included the removal of (1) the newly constructed upper portion of the fieldstone retaining, (2) 60 cu. ft. of recently deposited fill material, (3) the marble tiles, and (4) the existing debris. In addition, the recently filled area would be restored to its original grade and shrubs in the shoreline's 25 foot No Disturb Zone would no longer be pruned, allowing the area to re-vegetate naturally; if needed, additional sweet pepper

bushes would be planted. Ms. Johnson believed that the shrubs that had been growing under the recently filled area should grow back, but they should be checked in the spring to ensure that this happens.

Mr. Waldron then reviewed the Restoration Sequencing and Methodology section, clarifying that only the new (upper) section of the wall would be removed; the previously existing (lower) section would remain.

Motion was made by Ms. Marshall to approve the Resource Area Restoration Plan for 0 Camp Road as submitted; seconded by Mr. Davis. **Vote: 5-0-0**

General Business

Al Curtis notified the Commission that he would be retiring from the Commission effective December 1st. He will be going to Florida for the winter and will have a get together with everyone next June.

A new member will be needed.

Regulations for Foxborough's Wetland Protection Code, Chapter 267 (formerly Article IX)

Motion was made by Ms. Johnson to continue the Public Hearing for the Regulations to Foxborough's Wetlands Bylaw to the Commission's next scheduled meeting; seconded by Mr. Marsh. **Vote: 5-0-0.**

Meeting Adjourned

Motion was made by Mr. Davis to adjourn the meeting; seconded by Ms. Johnson. **Vote: 5-0-0**

The meeting was adjourned at 10:00 p.m.

Respectfully submitted,

Eric Nelson, Clerk

Draft minutes submitted by Diana Gray: 12/4/14

Approved by Commission: 12/29/2014

Documents, Not Referenced Above

Attached Documents:

1. Agenda, November 24, 2014
2. Meeting Sign In Sheet

Location of Other Documents:

3. Manager's Report, filed in Manager's Report binder in the Conservation Office.
4. Referenced projects' documents: please see Conservation Commission's project file